

1. Amend Section 85001 to read:
2. Post Hearing : Amend Section 85001 to read:

85001 DEFINITIONS (Continued)

85001

~~(a) a-~~ (1) (Continued)

(2) "Advance Health Care Directive" means a written instruction that relates to the provision of health care when the individual is incapacitated. An Advance Health Care Directive includes, but is not limited to, a Power of Attorney for Health Care; an Individual Health Care Instruction; a Request to Forego Resuscitative Measures; or a Do-Not-Resuscitate form. In this written instruction, a person states choices for medical treatment and/or designates who should make treatment choices if the person creating the advance directive should lose decision-making capacity.

(3) "Allowable Health Condition" means any health condition that the licensee is allowed to care for either in accordance with a specific regulation or with an exception approved by the licensing agency.

(4) "Appropriately Skilled Professional" means an individual that has training and is licensed to perform the necessary medical procedures prescribed by a physician. This term includes, but is not limited to, the following: Registered Nurse (RN); Licensed Vocational Nurse (LVN); Physical Therapist (PT); Occupational Therapist (OT); and Respiratory Therapist (RT). These professionals may include, but are not limited to, those persons employed by a home health agency, the resident, or adult residential facilities.

~~(b)-(c) b-e-~~ (Continued)

~~(d) d-~~ (1) ~~(Reserved)~~ "Do-Not-Resuscitate (DNR) Form" means the pre-hospital do-not-resuscitate forms developed by the California Emergency Medical Services Authority and by other local emergency medical services agencies. These forms, when properly completed by a client or, in certain instances, a client's Health Care Surrogate Decision Maker, and by a physician, alert pre-hospital emergency medical services personnel to the client's wish to forego resuscitative measures in the event of the client's cardiac or respiratory arrest.

~~(e) e-~~ (Continued)

~~(f) f-~~ (1) ~~(Reserved)~~ "Facility Hospice Care Waiver" means a waiver from the limitation on retention of clients who require more care and supervision than ordinarily would be permitted in an Adult Residential Facility, and clients who are bedridden other than for a temporary illness. This waiver granted by the Department will permit the licensee to retain a designated maximum number of terminally ill clients who

are receiving services from a Hospice Agency. The waiver will apply only to those clients who are receiving hospice care in compliance with a Hospice Care Plan meeting the requirements of Section 85075.1.

~~(g) g-~~ (Continued)

~~(h) h-~~ (1) ~~(Reserved)~~ "Health Care Provider" means that person or persons described in Probate Code Section 4621.

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Section 4621 of the Probate Code states:

"Health Care Provider" means an individual licensed, certified, or otherwise authorized or permitted by the law of this state to provide health care in the ordinary course of business or practice of a profession."

HANDBOOK ENDS HERE

(2) "Health Care Surrogate Decision Maker" means an individual who participates in health care decision-making on behalf of an incapacitated client. This individual may be formally appointed (e.g., by the client in an Advance Health Care Directive or by a court in a conservatorship proceeding) or be recognized by virtue of a relationship with the client (e.g., the client's next of kin). The licensee or any staff member of the facility shall not be appointed by any client to be a Health Care Surrogate Decision Maker.

(3) "Hospice or Hospice Agency" means an entity that provides hospice services to terminally ill persons. This entity is Medicare certified and holds either a Hospice license or a Home Health Agency license from the California Department of Health Services. The definition includes any organization(s), appropriately skilled professional(s), or other professional person(s) or entity(ies) that are subcontracted by the hospice to provide services to the client. The hospice agency providing services in an Adult Residential Facility shall not subcontract with the licensee or any facility staff for the provision of services.

(4) "Hospice Care Plan" means the hospice's written plan of care for a terminally ill client. The hospice shall retain overall responsibility for the development and maintenance of the plan and quality of hospice services delivered.

~~(i)-(s) i-s-~~ (Continued)

~~(t) t-~~ (1) ~~(Reserved)~~ "Terminally Ill Client" means a client who has a prognosis by his/her attending physician that the client's life expectancy is six months or less if his/her illness or condition runs its normal course. (Continued)

(u)-(z) ~~u-z~~ (Continued)

Authority Cited: Section 1530 and 1562.3, Health and Safety Code.

Reference: Sections 1501, 1502.2, 1507, 1530, 1531 and 1562.3, Health and Safety Code, Section 15610.13, Welfare and Institutions Code, and Sections 1800, 4605, and 4753, Probate Code.

1. Adopt new Section 85075.1 to read:
2. Post Hearing : Amend new Section 85075.1 to read:

85075.1 HOSPICE CARE

85075.1

- (a) A licensee shall be permitted to retain terminally ill clients who receive hospice services from a hospice agency if all of the following conditions (1) through (6) are met:
- (1) The licensee has received a facility hospice care waiver from the Department.
 - (2) The licensee remains in substantial compliance with the requirements of this section, and other provisions of Chapters 1 and 6 of Title 22, California Code of Regulations (CCR), governing Adult Residential Facilities, and with all terms and conditions of the waiver.
 - (3) Hospice services are contracted for by each terminally ill client individually or, if the client is incapacitated, by the client's Health Care Surrogate Decision Maker. The licensee shall not contract for hospice services on behalf of a client. The hospice must be licensed by the state and certified by the federal Medicare program to provide hospice services.
 - (4) A written plan is developed for each terminally ill client by that client's hospice. Prior to the initiation of hospice services for that client, the plan must be agreed upon by the licensee and the client, or the client's Health Care Surrogate Decision Maker. All plans must be fully implemented by the licensee and by the hospice.
 - (5) Retention of any terminally ill client in the facility does not represent a threat to the health and safety of any facility client or violate result the personal rights of any facility client.
 - (6) The hospice and the client agree to provide the licensee with all information necessary to allow the licensee to comply with all regulations and to assure that the client's needs are met.
- (b) A current and complete plan shall be maintained in the facility for each hospice client and include the following:
- (1) The name, office address, business telephone number, and 24-hour emergency telephone number of the hospice and the client's physician.
 - (2) A description of the services to be provided in the facility by the hospice, including, but not limited to, the type and frequency of services to be provided.

- (3) The designation of the client's primary contact person at the hospice, and the client's primary and alternate care-giver at the facility.
- (4) A description of the licensee's responsibility for implementing the plan including, but not limited to, facility staff duties, record keeping, and communication with the hospice, the client's physician, and the client's responsible person, if any. This description shall include the type and frequency of the tasks to be performed by facility staff.
 - (A) The plan shall specify all procedures to be implemented by the licensee regarding the storage and handling of medications or other substances, and the maintenance and use of medical supplies, equipment, or appliances.
 - (B) The plan shall specify, by name or job function, the licensed health care professional on the hospice staff who will control and supervise the storage and administration of all controlled drugs (Schedule II-V) for the client. Facility staff may assist clients with self-medications without hospice personnel being present.
 - (C) The plan shall neither require nor recommend that the licensee, or any facility staff, other than a physician or appropriately skilled professional, implement any health care procedure that may legally be provided only by a physician or appropriately skilled professional.
- (5) A description of all hospice services to be provided or arranged in the facility by persons other than the licensee, facility staff, or the hospice. These persons include but are not limited to clergy and the client's family members and friends.
- (6) Identification of the training needed, which staff members need this training, and who will provide the training related to the licensee's responsibilities for implementing the plan.
 - (A) The training shall include, but not be limited to, the needs of hospice patients, such as hydration, infection control, and turning and incontinence care to prevent skin breakdown.
 - (B) The hospice will provide training specific to the current and ongoing needs of the individual client receiving hospice care. The training must be completed before hospice care to the client begins.
- (7) Any other information deemed necessary by the Department to ensure that the terminally ill client's needs for health care, personal care, and supervision are met.
- (c) The licensee shall ensure that the plan complies with the requirements of this section and of Chapters 1 and 6 of Title 22, CCR, governing Adult Residential Facilities.

- (d) The licensee shall ensure that the plan is current, accurately matches the services being provided, and that the client's care needs are being met at all times.
- (e) The Department may require that the licensee obtain a revision of the plan if the plan is not fully implemented, or if the Department has determined that the plan should be revised to protect the health and safety of any facility client.
- (f) The licensee shall maintain a record of all hospice-related training provided to the licensee or facility staff for a period of three years.
 - (1) The record of each training session shall specify the names and credentials of the trainer, the persons in attendance, the subject matter covered, and the date and duration of the training session.
 - (2) The Department shall be entitled to inspect, audit, remove if necessary, and copy the record upon demand during normal business hours.
- (g) In addition to meeting the reporting requirements specified in Sections 80061-85061, the licensee shall submit a report to the Department when a client's hospice services are interrupted or discontinued for any reason other than the death of the client. The licensee shall also report any deviation from the client's plan, or other incident, which threatens the health and safety of any client.
 - (1) Such reports shall be made by telephone within one working day, and in writing within five working days, and shall specify all of the following:
 - (A) The name, age, and gender of each affected client.
 - (B) The date and nature of the event and explanatory background information leading up to the event.
 - (C) The name and business telephone number of the hospice.
 - (D) Actions taken by the licensee and any other parties to resolve the incident and to prevent similar occurrences.
- (h) For each client receiving hospice services, the licensee shall maintain the following in the client's record:
 - (1) The client's or the client's Health Care Surrogate Decision Maker's written request for retention and hospice services in the facility, and his/her Advance Health Care Directive, if any.

- (2) The name, address, telephone number, and 24-hour emergency telephone number of the hospice and the client's Health Care Surrogate Decision Maker, if any, in a manner that is readily available to the client, the licensee, and facility staff.
- (3) A copy of the written certification statement of the client's terminal illness from the medical director of the hospice or the physician in the hospice interdisciplinary group, and the client's attending physician, if any.
- (4) A copy of the client's current plan approved by the licensee, the hospice, and the client or the client's Health Care Surrogate Decision Maker, if the client is incapacitated.
- (5) A statement signed by the client's roommate, if any, indicating his or her acknowledgment that the client intends to receive hospice care in the facility for the remainder of the client's life, and the roommate's voluntary agreement to grant access to the shared living space to hospice staff, and the client's family members, friends, clergy, and others.
 - (A) If the roommate withdraws the agreement verbally or in writing, the licensee shall make alternative arrangements which fully meet the needs of the hospice client.
- (i) Prescription medications no longer needed shall be disposed of in accordance with Section 80075(o).
- (j) Care for the client's health condition is addressed in the plan.
 - (1) No facility staff, other than an appropriately skilled health professional, shall perform any health care procedure that, under law, may only be performed by an appropriately skilled professional.
- (k) The licensee shall maintain a record of dosages of medications that are centrally stored for each client receiving hospice in the facility.
- (l) Clients receiving hospice who are bedridden as defined in Section 1569.72(b) of the Health and Safety Code may reside in the facility provided that within 48 hours of the individual's bedridden status, the licensee ensures that the local fire authority is notified of the estimated length of time the client will be bedridden.

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Health and Safety Code Section 1569.72(b) provides:

- (1) For the purposes of this section, "bedridden" means either requiring assistance in turning and repositioning in bed, or being unable to independently transfer to and from bed, except in facilities with

appropriate and sufficient care staff, mechanical devices if necessary, and safety precautions, as determined by the director in regulations.

- (2) The determination of the bedridden status of persons with developmental disabilities shall be made by the Director of Social Services or his or her designated representative, in consultation with the Director of Developmental Services or his or her designated representative, after consulting the resident's individual safety plan. The determination of the bedridden status of all other persons with disabilities who are not developmentally disabled shall be made by the Director of Social Services or his or her designated representative.

HANDBOOK ENDS HERE

- (m) Nothing contained in this section precludes the Department from requiring a client to be relocated when the client's needs for care and supervision or health care are not being met in the facility.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1507.3, and 1569.72(b), Health and Safety Code.

1. Adopt new Section 85075.2 to read:
2. Post Hearing : Amend new Section 85075.2 to read:

85075.2 FACILITY HOSPICE CARE WAIVER

85075.2

- (a) In order to retain terminally ill clients and permit them to receive care from hospice, the licensee shall have obtained a Facility Hospice Care Waiver from the Department. To obtain this waiver the licensee shall submit a written request including, but not be limited, to the following:
 - (1) The maximum number of terminally ill clients that the facility will care for at any one time.
 - (2) A statement by the licensee or designated representative that this section, and all other requirements within Chapters 1 and 6, CCR, governing Adult Residential Facilities, have been read and that the licensee will ensure compliance ~~comply~~ with these requirements.
 - (3) A statement that the licensee shall comply with the terms and conditions of all plans which are designated as the responsibility of the licensee or under the control of the licensee.
 - (4) A statement that hospice services will be provided only to clients of the facility prior to the initiation of hospice services.
- (b) The Department shall deny a waiver request if the licensee is not in substantial compliance with the provisions of Chapters 1 and 6, CCR, governing Adult Residential Facilities.
- (c) The Department shall not approve a waiver request unless the licensee: 1) demonstrates the ability to meet the care and supervision needs of clients, and 2) states a willingness to provide additional care staff if required by the plan.
- (d) Any waiver granted by the Department shall include terms and conditions necessary to ensure the well-being of clients and/or all other clients. These terms and conditions shall include, but not be limited to, the following requirements:
 - (1) A written request shall be signed by each client or the client's Health Care Surrogate Decision Maker to allow the client's retention in the facility while receiving hospice services.
 - (A) The request shall be maintained in the client's record at the facility as specified in Section 85075.1(h)(1).

- (2) The licensee shall notify the Department in writing within five working days of the initiation of hospice care services in the facility for any client. The notice shall include the client's name and date of admission to the facility and the name and address of the hospice.
- (e) Within 30 calendar days of receipt of a completed request for a waiver, the Department shall notify the applicant or licensee, in writing, of one of the following:
 - (1) The request with substantiating evidence has been received and accepted for consideration.
 - (2) The request is deficient, needing additional described information for the request to be acceptable, and a time frame for submitting this information.
 - (A) Failure of the applicant or licensee to submit the requested information within the time shall result in denial of the request.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1507.3, Health and Safety Code.

1. Adopt new Section 85075.3 to read:
2. Post hearing: Amend new Section 85075.3 to read:

85075.3 ADVANCE HEALTH CARE DIRECTIVES

85075.3

- (a) A client shall be permitted to have an Advance Health Care Directive in the client's file.
- (b) If a client experiences a medical emergency and has an Advance Health Care Directive on file, the facility staff shall do one of the following:
 - (1) Immediately telephone 9-1-1, present the Advance Health Care Directive to the responding emergency medical personnel and identify the client as the person to whom the Directive refers; or-
 - (2) Immediately give the Advance Health Care Directive to a physician, RN or LVN if he or she is in the client's presence at the time of the emergency and if he or she assumes responsibility.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501 and 1507, Health and Safety Code, and Section 4605, Probate Code.

Renumber Section 85075.4 to read:

85075.~~3~~ 4 OBSERVATION OF THE CLIENT (Continued)

85075.~~3~~ 4

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1507, 1507.3, 1521 and 1531, Health and Safety Code.